

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 3:100. Special commission permits.

5 RELATES TO: KRS 150.170, 150.175, 26 U.S.C. 501(c)(3)

6 STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department
8 to promulgate administrative regulations to establish hunting seasons, bag limits, and
9 the methods of taking wildlife. KRS 150.177 authorizes the department to issue a special
10 permit to an incorporated nonprofit wildlife conservation organization. KRS 150.195(1)
11 requires the department to promulgate administrative regulations pertaining to the
12 issuance of licenses and permits. This administrative regulation establishes the
13 requirements for the issuance and use of Special Commission Permits.

14 Section 1. Definitions. (1) "Incorporated nonprofit wildlife conservation organization"
15 means an entity that:

16 (a) Has a stated[primary] purpose, as expressed in its articles of incorporation or
17 bylaws, to conserve and enhance fish and wildlife resources to provide opportunities for
18 hunting, fishing, trapping, wildlife education, habitat enhancement, or related activities

1 such as shooting sports, hunter and angler education and training, boating, etc.;

2 (b)1. Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3);

3 and

4 2. Is incorporated under the laws of this state or any other state; or

5 (c) Is an affiliated regional, state, or local chapter of a parent organization that meets
6 the requirements of subsection (1)(b) of this section~~[Holds a charter status under an~~
7 ~~incorporated parent organization]~~.

8 (2) "Proceeds" means the amount of money received by an incorporated nonprofit
9 wildlife conservation organization from the sale or transfer of a special commission
10 permit minus all expenses directly attributable to the sale of the permit.

11 (3) "Project" means an enterprise designed to achieve stated purposes, which shall
12 conserve and enhance fish and wildlife resources within Kentucky by enhancing habitat
13 or providing opportunities for hunting, fishing, trapping, wildlife education, habitat
14 enhancement, or related activities such as shooting sports, hunter and angler education
15 and training, boating, etc.

16 (4) "Special commission permit" means a species-specific permit issued by the
17 Kentucky Fish and Wildlife Commission to an incorporated nonprofit wildlife
18 conservation organization that allows the permit recipient, depending on the species
19 listed on the permit, to harvest:

20 (a) One (1) additional deer of either sex~~[antlered or antlerless deer]~~ per license year;

(b) One (1) additional turkey of either sex per license year;

(c) One (1) elk of either sex per license year; or

(d) Up to a daily bag limit of waterfowl per day.

Section 2. Issuance and Sale of Special Commission Permit. (1) There shall be no more than ten (10) special commission permits issued per species per license year.

(2) An incorporated nonprofit wildlife conservation organization may apply for one (1) special commission permit per species. The incorporated nonprofit wildlife conservation organization shall accurately complete a Special Commission Permits Application Form.

(3) A national organization and its affiliated regional, state, and local chapters shall all be eligible to apply for a special commission permit in the same year if each organization meets the definition in Section 1(1)[(2)] of this administrative regulation.

(4) ~~No[A national organization and its affiliated regional, state, and local chapters shall not be eligible to be awarded]~~ more than one (1) special commission permit per species shall be awarded per[unless each applicant has a separate and distinct nonprofit organization status under 26 U.S.C. 501(c)(3) and a separate and] distinct Internal Revenue Service Employer Identification Number (EIN)[tax identification number].

(5) In addition to the completed application, the organization shall also submit:

(a) A[1. One (1)] copy of the organization's articles of incorporation;

(b) A copy of the Internal Revenue Service determination letter establishing the organization's current tax-exempt status, including the applicant's Employer

1 Identification Number (EIN);

2 (c) A copy of the organization's~~[or bylaws that state the purpose of the organization;~~

3 ~~or~~

4 ~~2. A separate charter status from a parent organization and the parent organization's~~
5 ~~articles of incorporation or]~~ bylaws that state the purposes~~[purpose]~~ of the ~~[parent]~~
6 ~~organization, if the purposes];~~

7 ~~(b) Written proof]~~ of the organization are not stated in the articles of
8 incorporation~~[organization's tax-exempt status including the applicant's tax~~
9 ~~identification number]; and~~

10 (d)[(e)] A letter, dated within ninety (90) days of the application, from the
11 organization's parent organization, if applicable, stating~~[that states]~~ that the chapter
12 organization is in good-standing and is recognized by the parent organization.

13 (6) The completed application and accompanying documents listed in subsection (5)
14 of this section shall be postmarked or delivered to the department by May 1 of each
15 year.

16 (7) Applications shall be disqualified from the awards process for the criteria~~[The~~
17 ~~items]~~ listed in paragraphs (a) through (d)[(e)] of this subsection:

18 (a) Failure to submit the required application and accompanying documents to the
19 department by the deadline established in subsection (6) of this section~~[shall be~~
20 ~~grounds for disqualification from the award process;~~

1 ~~(a) An incomplete application];~~

2 (b) An incomplete[Incomplete] or missing Special Commission Permits Application
3 Form or accompanying documents required[.] pursuant to subsection (5) of this section;

4 (c) Failure to qualify as an incorporated nonprofit wildlife conservation organization;

5 or

6 ~~(d) Beginning in 2022, the[submit the required application and accompanying~~
7 ~~documents to the department by the May 1 deadline;~~

8 ~~(e) The]~~ wildlife conservation organization applicant failed to:

9 1. Sell[did not use or transfer] a special commission permit awarded in the[a] previous
10 two (2) years;

11 2. Comply with the requirements of subsections (11)(b) and 11(c) of this section
12 during the previous two (2) years[year]; or

13 3. Timely submit all of the information required by subsections (11)(d) and 11(f) of
14 this section during the previous two (2) years

15 ~~(e) Failure to qualify as an incorporated nonprofit wildlife conservation organization].~~

16 (8) Prior to selecting special commission permit recipients, the Fish and Wildlife
17 Commission shall review and consider all applications and documents submitted by
18 each wildlife conservation organization that has not been disqualified pursuant to
19 subsection ~~(7)~~~~(5)~~ of this section.

20 (9) The department shall provide the Fish and Wildlife Commission with information

1 concerning each applicant's relative standing with regard to:

2 (a) ~~[Content and quality of submitted application materials;~~

3 ~~(b)] Past compliance;~~

4 ~~[(c) Ability to generate funds;] and~~

5 (b) History of funds generated ~~[(d) The proposed conservation project's potential for~~
6 ~~enhancing fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-~~
7 ~~related recreation in Kentucky].~~

8 (10) The Fish and Wildlife Commission shall select permit recipients based on the
9 information listed in subsection (9) of this section and the information contained within
10 the organization's application.

11 (11) An incorporated nonprofit wildlife conservation organization that is awarded a
12 special commission permit shall:

13 (a) Generate proceeds through the sale of each permit awarded;

14 (b) Use the[all] proceeds from the sale of the permits only for the project listed in the
15 application;

16 (c) Remit to the department any proceeds from the sale of the permit that are not
17 expended by the May first (1) reporting deadline three (3) years after the submission
18 deadline of the application for which the special commission permits were awarded;

19 (d) Submit[permit for conservation projects in Kentucky as approved by the Fish and
20 Wildlife Commission;

1 ~~(b) Underwrite all promotional and administrative costs for the selling of the permit;~~

2 ~~(c) Sell each permit as stated in the application;~~

3 ~~(d) Submit, by June first (1) of the year the permit is valid,]~~ to the department the
4 information listed in subparagraphs 1. through 5.[4.] of this paragraph ~~for[on]~~ the hunter
5 to whom[who receives] the permit shall be issued. Failure to submit the required
6 information by the applicable deadline will result in no permit being issued[from the
7 nonprofit wildlife conservation organization].

8 1. Name;

9 2. Address;

10 3. Date of birth; [and]

11 4. A copy of the hunter's valid Kentucky Hunting license; and

12 5. For waterfowl, the requested location and date of the hunt.

13 (e) The information to be submitted, as established in paragraph (d) of this section,
14 shall be submitted to the department no later than the following dates during the
15 license year for which the permit is valid:

16 1. March 1 for turkey;

17 2. August 1 for elk;

18 3. August 1 for deer; and

19 4. September 1 for waterfowl.

20 (f) Submit to the Department of Fish and Wildlife Resources, by May 1 of the

1 following year, and each subsequent year until all funds generated by the sale of the
2 permit are expended or remitted to the department

3 ~~[(e) Submit, by May 1 of the following year], a report, subject to audit, that includes:~~

4 1. A financial statement containing:

5 a. Total funds raised;

6 b. A detailed list of expenditures directly attributable~~[Overhead costs or expenses~~
7 ~~related]~~ to the sale of the permit; ~~[and]~~

8 c. Net profit;

9 d. A detailed list of expenditures attributable to the conservation project with receipts
10 attached; and

11 e. Balance of funds remaining;

12 2. A summary of the:

13 ~~a. The]~~ conservation project; and

14 ~~[b. Expenditures related to the conservation project; and]~~

15 3. A synopsis of the project's impact in regards to the goals stated in the
16 application~~[impact the conservation project had on enhancing fish and wildlife, habitats,~~
17 ~~fish and wildlife education, or fish and wildlife-related recreation].~~

18 (12) Once a special commission permit has been issued to a hunter, it shall not be
19 transferred to another hunter.

20 Section 3. Special Permit Use. (1) A special permit shall only be valid for the:

1 (a) Individual named on the permit;

2 (b) Species of wildlife listed on the permit; and

3 (c) The first season for that species in the license~~[calendar]~~ year following the
4 ~~[quarterly]~~ commission meeting that the special permit was awarded, except that during
5 2020, permits~~[for the special commission permit]~~ for deer and ~~[for]~~ waterfowl~~[-which]~~
6 shall also be awarded ~~[be valid]~~ for the current license year~~[first season following the~~
7 ~~quarterly commission meeting that the special permit was awarded]~~.

8 (2) A special commission permit holder shall comply with all other department
9 statutes and Title 301 KAR.

10 (3) A holder of a special commission permit to hunt deer may hunt on any Wildlife
11 Management Area during an open deer season or nonmobility impaired quota hunt
12 pursuant to 301 KAR 2:178, except:

13 (a) Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR
14 2:222;

15 (b) A permit holder shall contact the wildlife area manager at least forty-eight (48)
16 hours before hunting; and

17 (c) A permit holder shall notify the area manager upon leaving a Wildlife
18 Management Area.

19 (4) A holder of a special commission permit to hunt wild turkey shall not hunt on a
20 Wildlife Management Area that is closed to turkey hunting.

(5) A holder of a special commission permit to hunt waterfowl may, subject to the timely submission of all applicable information by the wildlife conservation organization, hunt on Ballard, Boatwright, or Sloughs Wildlife Management Areas from one (1) of the areas' hunting units during~~[permanent waterfowl blinds by:~~

~~(a) Contacting the department no later than September 30; and~~

~~(b) Reserving a blind for]~~ one (1) of the available hunt periods established by the department, pursuant to 301 KAR 2:222.

(6) Each special commission permit to hunt elk shall be randomly assigned a hunting unit at the time of the selection of the wildlife conservation organizations to be awarded special commission permits. Each unit will be assigned once prior to assigning a second permit to the unit. No unit will be assigned more than two (2) permits. The permit holder shall be restricted to hunting in the assigned unit only.

(7) A holder of any special commission permit may hunt on private land with the permission of the landowner.

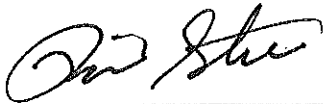
~~[(7) Unless specific equipment is prohibited on a Wildlife Management Area, a special permit holder shall only harvest game with hunting equipment that is allowed for the season during which the permit holder is hunting.]~~

Section 4. Incorporation by Reference. (1) "Special Commission Permits Application Form", 2019~~[2015]~~ edition, is incorporated by reference.

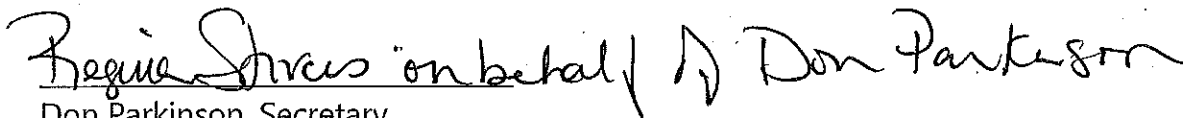
(2) This material may be inspected, copied, or obtained, subject to applicable

- 1 copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane,
- 2 Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

Approved by the Fish and Wildlife Commission



Rich Storm, Commissioner
Department of Fish and Wildlife Resources



Don Parkinson, Secretary
Tourism, Arts and Heritage Cabinet

Date: 9-12-19

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 25, 2019 at 10:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through November 30, 2019.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jessica Tyler, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone: (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 3:100. Special Commission Permits.

Contact Person: Jessica Tyler

Email: Jessica.tyler@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: The administrative regulation authorizes the Fish and Wildlife Commission to issue special permits to qualified incorporated nonprofit wildlife conservation organizations for the organizations to use as a fundraising tool to create wildlife conservation projects that enhance fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to establish the procedures and requirements for the issuance of special commission permits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special game permits to incorporated non-profit wildlife conservation organizations. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation defines the process and criteria for applying for a special permit, the selection process used by the Commission, and report requirements for wildlife conservation organizations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

Amendments to this regulation will resolve inconsistencies within the regulation and more clearly define the process and criteria for applying for a permit, the selection process used by the Commission, and report requirements for wildlife conservation organizations.

(b) The necessity of the amendment to this administrative regulation: The amendments to this regulation are necessary to resolve inconsistencies within the regulation and to more clearly define the process and criteria for applying for a permit, the selection

process used by the Commission, and report requirements for wildlife conservation organizations.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In 2019, there were approximately 19 organizations that applied for at least one permit. 14 organizations received at least one permit.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each incorporated nonprofit wildlife conservation organization will need to meet eligibility requirements and follow the application and reporting procedures and requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a cost to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The conservation organizations that receive a permit will benefit by using the permit for fundraising events that will, in turn, be used for wildlife conservation projects, thus furthering their missions in Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be a small cost to administer and coordinate the permit application and selection process.

(b) On a continuing basis: There will be a small cost to the agency on a continuing basis to administer and coordinate the permit application and selection process.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly nor does it increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, as all incorporated nonprofit wildlife conservation organizations applying for special permits are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

301 KAR 3:100. Special Commission Permits.

Contact Person: Jessica Tyler

Email: Jessica.tyler@ky.gov

Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Wildlife Division and Administrative Services Division of the Department will be impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, 150.177, and 150.195(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years, except that organizations will be required to remit to the department any proceeds from the sale of a permit that are not expended by the May 1 reporting deadline three years after the submission deadline of the application for which the special commission permits were awarded.

(c) How much will it cost to administer this program for the first year? There will be a small cost associated with administering and coordinating this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be a small cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-): A small cost relative to employees' time about once a year, plus some mailing costs.

Other Explanation:

Summary of Material Incorporated by Reference
and
Summary of Changes to Material Incorporated by Reference

Summary of Material Incorporated by Reference

(1) The "Special Commission Permits Application Form", 2019 edition, is a two-page, single-sided form that any incorporated nonprofit wildlife conservation organization must complete and submit to the Kentucky Department of Fish and Wildlife Resources if they wish to apply for a special commission permit.

Summary of Changes to Material Incorporated by Reference

- (1) The "Special Commission Permits Application Form", 2019 edition, contains several additions and revisions to the information an incorporated wildlife conservation organization is required to submit if they wish to apply for a special commission permit. Changes include clarifying the due date of the application, requiring that an organization state who the proposed wildlife conservation project will primarily benefit, if funds received from the sale of a permit will be used to purchase tangible goods, and if so, who will maintain ownership of those goods, and better defining which supporting documents are required to apply.